



आदेश पत्रक

मामला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	HIGH COURT OF CHHATTISGARH AT BILASPUR CR.M.P. NO. 414 of 2007 APPLICANTS 1. Nainu, Son of Indradman Sahu, aged about 40 yrs Occupation : Postman. 2. Vimalbai, w/o Nainu Sahu, aged about 38 years. 3. Devendran, S/o Nainu Sahu, aged about 20 years. 4. Ashok, Son Indradman Sahu, aged about 32 years, 5. Smt. Isha, wife of Ashok Sahu, aged about 30 years. 6. Pukhraj, S/o Guniram Sahu, aged about 22 years, 7. Agrabai, S/o Manrakhan Sahu, aged about 55 years. All are resident of Vill. P.O. Chilphi, Tehsil & Thana, Saja, District Durg (C.G.) RESPONDENT : Naresh, Son of Pardesiram Sahu, aged about 22 years, Occupation : Agriculturist, resident of Village & P.O. Chilphi, Tehsil/Thana: Saja, District Durg (C.G.) Present: Mr. T.K. Tiwari, counsel for the applicants. ORDER (19th September 2007)	

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	<u>Dhirendra Mishra, J</u> The applicants by this petition under Section 482 of the Code of Criminal Procedure (for brevity 'the Code') have prayed for quashing of the order dated 22.1.2007 passed by Judicial Magistrate First Class, Bemetara in complaint case No. 29/07 whereby charge under Sections 506B, 323/34 of the IPC has been framed against them and also the order dated 7.8.2007 passed in Cr.Rev.No. 12/07 passed by Additional Sessions Judge, Bemetara, whereby the criminal revision has been dismissed. Learned counsel for the applicants argued that on the report of applicant No. 7 Agrabai Crime No.149/06 for the offence under Sections 452, 294, 323, 506 of the IPC has been registered against the respondent. Applicants No. 1 to 6 have been cited as witnesses for the above offence. On account of above pending criminal case, the respondent filed a frivolous complaint against the applicants. Learned trial Court forwarded the complaint under Section 156(3) of the Code to the concerned police station for enquiry and report. In pursuance thereof, the Station House Officer, P.S. Saja vide his report of Annexure P/2 has submitted that a case is pending against the complainant and therefore, he has filed the complaint as a defence.	

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	Relying upon the decisions in the matters of <u>Kailash Chaudhari and others Vs. State of U.P. and another, 1994 Cri.L.J. 67</u> and <u>C.V. Govindrajulu Vs. R.V. Bhaskar and others, 1998 Cr.L.R. 939</u>, it is argued that it is incumbent duty of the Magistrate to take into consideration the statement under Section 200 of Code of the complainant on oath and that of all the witnesses and result of the enquiry referred to under Section 203 of the Code before registering the complaint. However, in the instant case despite there being a categorical report from the police that a frivolous complaint has been lodged by the complainant as a defence because there is a criminal case against him, the trial Court has not considered the report submitted the investigating officer. I have heard learned counsel for the applicants and perused the orders passed by both the Courts below. The complaint has been filed with an allegation that on the report of wife of complainant a rape case was registered against some Rajkumar and allegations against the present applicants in the complaint is that they were pressurizing the complainant and his wife to enter into a compromise with Rajkumar Sahu, who happened to be Sarpanch of the village and when they did not agree to the proposition, they committed the alleged offence. There is allegation that the matter was	

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	reported to the police station as also to the Superintend of Police. However, when no action was taken, the said complaint was lodged. The Magistrate after going through the complaint, statement under Section 200 of the Code and also considering the police report has recorded a satisfaction that offence under Sections 506B & 323/34 is made out against the accused persons and directed issuance of process. The revision preferred by the applicants has also been rejected with a detailed and reasoned order by the learned Additional Sessions Judge, Bemetara. The S.H.O. after recording statements of the accused persons has submitted a report of Annexure A/2 without making any enquiry from the complainant or his witnesses, which on the face of it, is based on a forge enquiry. So far as arguments based on the judgment in the matter of <u>Kailash Chaudhari</u> (supra) that the trial Court has not set out the allegations made in the complaint and the material brought on record before registering offence and ordering issuance of process, is concerned, the trial Court, in the instant case, has referred to the complaint in its order and after perusal of the complaint, statement of the complainant and his witnesses and police report of Annexure A/2, has	

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	found sufficient grounds for proceedings under Sections 506B, 323/34 of IPC against the applicants. So far as arguments based on the judgment in the matter of <u>C.V. Govindrajulu</u> is concerned, as already pointed out that report of Annexure A/2 has been submitted by the S.H.O. without conducting enquiry from the complainant or his witnesses, only on the basis of statements of the applicants, and therefore, the Courts below have rightly ignored the above report. In the light of orders passed by both the Courts below, this Court is of the considered opinion that no interference for quashing of the charge or prosecution of the applicants in the above complaint is called for in exercise of inherent jurisdiction. Even otherwise, second criminal revision in the garb of petition under Section 482 of the Code cannot be entertained in view of bar contained in Section 397(3) of the Code. Accordingly, the instant petition being devoid of substance as also not maintainable, deserves to be dismissed at the admission stage itself and is hereby dismissed.	Sd/- Dhirendra Mishra Judge

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[पोस्ट]